



CHAIRMAN

Federal Communications Commission

Washington, D.C.

March 4, 2005

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MAR 11 2005

Federal Communications Commission  
Office of the Secretary

The Honorable Mike Enzi  
United States Senate  
379A Russell Senate Office Building  
Washington, D.C. 20510

Dear Senator Enzi:

Thank you for your January 24, 2005 letter regarding the Commission's rules implementing the Telephone Consumer Protection Act of 1991 ("TCPA"). In your correspondence, you urge the Commission to act promptly to clarify outstanding issues related to calls made for the purpose of debt collection, particularly where Commission rules might conflict with provisions in the Fair Debt Collection Practices Act ("FDCPA").

The Commission received more than 60 petitions for reconsideration and/or clarification of its 2003 *Report and Order*, including a petition filed by ACA International, an association representing the credit and collection industry. ACA sought clarification that the Commission's rules do not apply to debt collection calls, given the apparent conflict with the FDCPA.

On February 10, 2005, the Commission adopted an *Order on Reconsideration* in which it concluded that calls made for the purpose of debt collection are not required to identify the caller's state-registered name in prerecorded messages, if doing so would conflict with federal or state laws. I hope that this action resolves some of the concerns raised by the credit and collection industry. I am enclosing a copy of the *Reconsideration Order* and the Commission's News Release for your information.

I appreciate your support for the federal do-not-call list, and I understand the importance of these issues for your constituents. We have placed a copy of your correspondence in the public record for this proceeding. Please do not hesitate to contact me if I can be of further assistance.

Sincerely,

Michael K. Powell

Enclosures

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List ABCDE

United States Senate  
WASHINGTON, DC 20510

February 9, 2005

Honorable Michael Powell  
Chairman  
Federal Communications Commission  
445 12th Street SW  
Washington, D.C. 20554

Dear Mr. Chairman:

We are writing to express our concern about the revised regulations under the Telephone Consumer Protection Act (TCPA) that have put an entire industry in the untenable position of having to violate one federal law to comply with another.

As you know, the credit and collection industry is governed by the Fair Debt Collection Practices Act (FDCPA), which among other restrictions, prohibits disclosing the existence of a debt to a party other than the debtor. This privacy safeguard runs counter to the Commission's 2003 decision that, under the TCPA, a debt collector using an "autodialer" must transmit the state-registered name of the firm at the beginning of a prerecorded message. We believe it was not the intent of Congress to subject debt collectors to this telemarketing requirement under the TCPA.

Autodialers, as used by the credit and collection industry, are not telemarketing tools. They are instead used to efficiently close outstanding accounts with customers who have existing business relationships with creditors. Telephone calls from collection agencies are not randomly placed to consumers, like autodialed calls from telemarketers. The Commission recognized the inherent difference between autodialed calls from telemarketers and debt collectors in a July 1995 Report and Order, which accepted that debt collection calls are not random, but instead are directed to specific contact numbers for specific debtors. The Report and Order further clarified "that the rules do not require that debt collection employees give the names of their employers in a prerecorded message, which disclosure might otherwise reveal the purpose of the call to persons other than the debtor." We believe this was the correct interpretation of the TCPA.

Another issue of concern related to the 2003 revisions to the TCPA regulations, is the Commission's decision to prohibit a collector from using autodialers to call a wireless telephone

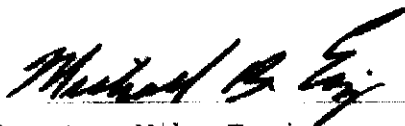
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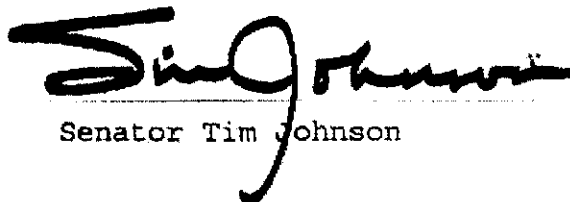
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Therefore, we request that the Commission act promptly to clarify, either through the pending reconsideration order or any appropriate vehicle, that the use of autodialers and pre-recorded messages, as well as wireless communication, for debt collection purposes are properly treated by the Commission's TCPA regulations.

Sincerely,



Senator Mike Enzi



Senator Tim Johnson



Senator Wayne Allard



CHAIRMAN

Federal Communications Commission

Washington, D.C.  
March 4, 2005

02-278

The Honorable Wayne Allard  
United States Senate  
525 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Senator Allard:

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Federal Communications Commission  
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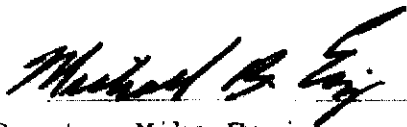
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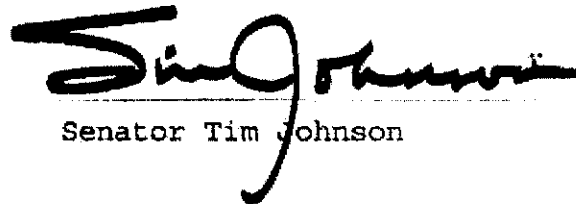
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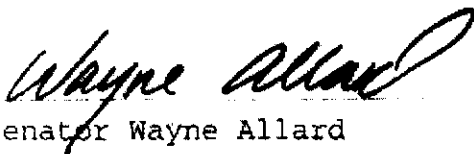
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Senator Wayne Allard



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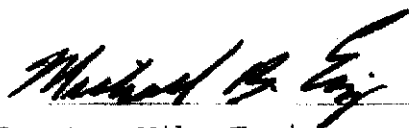
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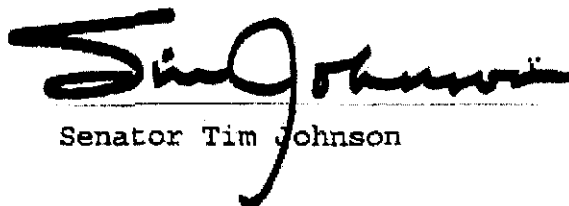
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